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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,339	08/08/2000	Evan John Kaye	03092/100G844-US1	4215

7590
05/05/2005
Darby & Darby PC
805 Third Avenue
New York, NY 10022

EXAMINER

TRAN, QUOC A

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/634,339

Applicant(s)

KAIMOWITZ, EVAN JOHN

Examiner

Quoc A. Tran

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to Appeal Brief filed 12/15/2004.
2. Claims 1-24 are currently pending in this application. Claims 1, 6, 12 and 21 are independent claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Independent claims 1, 6, 12 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable by Zhang et al. US 20020073098A1- Provisional No. 60/185,566 filed 02/28/2000 (hereinafter Zhang), in view of Solboe US006349942B1- Provisional No. 60/147,448 - filed 08/05/1999 (hereinafter Solboe).

In regard to independent claims 1 and 12, a. inputting a voice clip of a portion of the song into a microphone connected to a client machine (as taught by Zhang at page 2, paragraph [0045]); **inputting a voice clip of a portion of the song into a microphone of a telephone** (as taught by Zhang at page 2, paragraph [0033], still another object of the present invention is to provide an Interface for the User to Input the Melody, where in the term "Interface" is use here in the broadest sense to define a device that connects pieces of hardware with computer so that information (e.g. music/voice clip) can move from place to place that

encompass the utilization of inputting a voice clip of a portion of the song into a microphone of a telephone connected to a client machine); **as well as first user identification information** (as taught by Zhang at page 2, paragraph [0060];

b. providing the voice clip to a server connected to the Internet (as taught by Zhang at page 2, paragraph [0047]);

c. selectively providing further information relating to the song to the server (as taught by Zhang at page 2, paragraph [0048]);

f. receiving at the client machine an electronic notification from the server that the song has been identified (as taught by Zhang at page 3, paragraph [0080]-[0081]);

Zhang does not explicitly teach, **d. making the voice clip and any further information available to a human visitor to the server**, however (as taught by Solboe at col. 2, lines 55-65, further more, still another object of the present invention is to provide a disc jockey as a host, or an interactive internet web page, but not playing the game, will play the songs on a music source wherein the music source maybe replaced with a computer and assessable by others participants, where in the term “a disc jockey” is use here in the broadest sense to encompass a host computer or server computer as taught by Solboe at col. 3, line 65 through col. 4, line 1);

e. permitting multiple human visitors to post the name of the song to the server, however (as taught by Solboe at col. 4, lines 1-8, still another object of the present invention is to provide an interactive internet web page, wherein participants would phone-in or communicate their answers in response to the play of a particular song, where in the phrase “communicate and hosting an interactive internet web page ” is used here in the broadest sense to encompass a host

computer or server computer to permitting participants (e.g. users) submitting their responses to the host computer;

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the methodology and system to search music information over a computer network, especially the Internet, based on melody and rhythm of the music taught by Zhang to include a means for posting content (e.g. voice clip, audio matter, such as music; or multi-media matter) such as a board game for guessing the song titles and artists presented by an interactive internet web page. One of ordinary skill in the art would have been motivated to modify this combination to provide a merit-based award for guessing information about a topic area particularly guessing songs/artist from a music source using clever and competitive scoring system, as taught by Solboe at col. 1, line 25-40).

In regard to independent claim 6, a. downloading a voice clip created by a voice-clip author to a user at a client machine from the Web site (as taught by Zhang at page 2, paragraph [0050]);

b. playing the voice clip at the client machine (as taught by Zhang at page 3, paragraph [0081]-[0082], client Program receives the searching result from the Server Program and presented to the user through the user interface, if the query is successful, the Server Program organizes the query results in a proper format; the phrase “results in a proper format” broadly defined to encompass playing the voice clip at the client machine);

e. electronically notifying the voice-clip author in the event that said at least one predetermined criterion is satisfied (as taught by Zhang at page 2, paragraph [0048]);

f. receiving at the client machine an electronic notification from the server that the song has been identified (as taught by Zhang at page 3, paragraph [0080]-[0081]);

Zhang does not explicitly teach, **c. selectively providing a response from the client machine to the Web site the response including a song name or artist's name**, however (as taught by Solboe at col. 3, line 65 through col. 4, line 8, still another object of the present invention is to provide an interactive internet web page, wherein participants would phone-in or communicate their answers in response to the play of a particular song, where in the phase “communicate and hosting an interactive internet web page” is use here in the broadest sense to encompass a host computer or server computer to permitting participants (e.g. users) submitting their responses to the host computer);

d. awarding a benefit to the user for the response provided that at least one predetermined criterion is satisfied, however (as taught by Solboe at col. 6, lines 5-10);

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the methodology and system to search music information over a computer network, especially the Internet, based on melody and rhythm of the music taught by Zhang to include a means for posting content (e.g. voice clip, audio matter, such as music; or multi-media matter) such as a board game for guessing the song titles and artists with a merit-based award that presented by an interactive internet web page host. One of ordinary skill in the art would have been motivated to modify this combination to provide a merit-based award for guessing information about a topic area particularly guessing songs/artist from a music source using clever and competitive scoring system, as taught by Solboe at col. 1, line 25-40).

In regard to independent claim 21, incorporate substantially similar subject matter as cited in claim 6 above, and is similarly rejected along the same rationale.

5. **Dependent claims 2-7, 8-9, 13-20 and 22-24** are rejected under 35 U.S.C. 103(a) as being unpatentable by Zhang et al. US 20020073098A1- Provisional No. 60/185,566 filed 02/28/2000 (hereinafter Zhang), in view of Solboe US006349942B1- Provisional No. 60/147,448 - filed 08/05/1999 (hereinafter Solboe).

In regard to dependent claim 2, wherein the electronic notification includes a **hypertext link to a predetermined page constructable by the server** (as taught by Zhang at page 3, paragraph [00062]).

In regard to dependent claims 3-5 and 7, incorporate substantially similar subject matter as cited in claim 6 above, and is similarly rejected along the same rationale.

In regard to dependent claim 8, incorporate substantially similar subject matter as cited in claim 6 above, and further view of the following, and is similarly rejected along the same rationale;

the plural voice clips comprising a playlist (as taught by Zhang at page 3, paragraphs [0081]-[0082], Zhang discloses that the result from music search query return to users as a organizes query results in a proper format, the term “query results in a proper format” is used here in the broadest sense to encompass a playlist).

In regard to dependent claim 9, wherein the voice clips in the playlist are compiled **so as to more evenly distribute voice clips to plural users**, however (as taught by Solboe at col. 5, lines 15-30, still another object of the present invention is to provide an interactive

internet web page, wherein host recites a succession of questions for the participant to answer. The participant guesses the answers for as many questions as they can in a pre-determined time period, preferably two minutes, this approach is used here in the broadest sense to encompass a game's rule, wherein each participant has an event share of question and answer, which could interpreted as claimed).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the methodology and system to search music information over a computer network, especially the Internet, based on melody and rhythm of the music taught by Zhang to include a means for evenly distributing content (e.g. voice clip, audio matter, such as music; or multi-media matter) to users for guessing the song titles and artists presented by an interactive internet web page. One of ordinary skill in the art would have been motivated to modify this combination to provide a merit-based award for guessing information about a topic area particularly guessing songs/artist from a music source using clever and competitive scoring system, as taught by Solboe at col. 1, line 25-40).

In regard to dependent claims 13-16, incorporate substantially similar subject matter as cited in claims 1-2, 6 and 12 above, and are similarly rejected along the same rationale.

In regard to dependent claims 22-24, incorporate substantially similar subject matter as cited in claim 6 above, and are similarly rejected along the same rationale.

In regard to dependent claim 17, wherein the first user identification information is received automatically from the client machine upon accessing the server (as taught by Zhang at page 2, paragraphs [00049] and [0060]).

In regard to dependent claim 18, wherein the first user identification information is received automatically from a cookie stored on the client machine (as taught by Zhang at page 2, paragraphs [00049], [0053] and [0060], still another object of the present invention is to provide a bi-directional connection is established between the Client Program and the Server Program. Since HTTP connection between the web browser and the Server Program allow server program running as the Client Program at the user computer sends melody key or raw input data to the Server Program over this connection as well as administrative data such as user name, etc, which could interpreted as claimed, "cookie".

In regard to dependent claim 19, wherein the first user identification information is received from the client machine in response to manual input by the first user (as taught by Zhang at page 3, paragraph [0037], till another object of the present invention is to provide a bi-directional connection is established between the Client Program and the Server Program and Java Applet and JavaScript in an HTML page, wherein user may use one or many of the following ways of user interface to replay, edit, clear, re-enter and submit the input, the phrase "user input" is used here in the broadest sense to encompass the approach such as user manually input administrative data such as user name ,etc).

6. **Dependent claims 10-11** are rejected under 35 U.S.C. 103(a) as being unpatentable by Zhang et al. US 20020073098A1- Provisional No. 60/185,566 filed 02/28/2000 (hereinafter Zhang), in view of Solboe US006349942B1- Provisional No. 60/147,448 - filed 08/05/1999 (hereinafter Solboe), further in view of Palm US 20010042107A1 – filed 01/ 08/2001 (hereinafter Palm).

In regard to dependent claims 10-11, incorporate substantially similar subject matter as cited in claim 6 above, and further view of the following, and is similarly rejected along the same rationale;

Zhang does not explicitly teach, **including the additional step of deleting one or more voice clips from the database in response to at least one predetermined criterion, wherein the user has voice clips downloaded to the client machine which have not been previously downloaded to that use**, however (as taught by Palm at col. 2, lines 45-62, Zhang and Solboe disclosed the embedded feature wherein Java Applet and JavaScript in an HTML page were utilized by as user interface, however, still another object of Hooban invention is to provide a user interface to remotely permitted user to interactively query a repository (or repositories) of song titles and artists and select, delete, and reorder a desired compilation of songs).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the methodology and system to search music information over a computer network, especially the Internet, based on melody and rhythm of the music taught by Zhang to include a means for posting content (e.g. voice clip, audio matter, such as music; or multi-media matter) such as a board game for guessing the song titles and artists presented by an interactive internet web page and to include a means for including the additional step of dynamically updating the voice clip data base. One of ordinary skill in the art would have been motivated to modify this combination to provide a merit-based award for guessing information about a topic area particularly guessing songs/artist from a music source using clever and competitive scoring system, as taught by Solboe at col. 1, line 25-40).

Response to Argument

7. Applicant's Appeal Brief filed and Argument filed on 12/15/2004 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

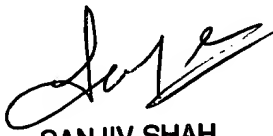
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quoc A. Tran whose telephone number is (571) 272- 4103. The examiner can normally be reached on Monday through Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Quoc A. Tran
Patent Examiner
Technology Center 2176
April 27, 2005


SANJIV SHAH
PRIMARY EXAMINER